

**2005 DRAFTING REQUEST**

**Bill**

Received: **11/22/2004**

Wanted: **As time permits**

For: **Revisor of Statutes**

This file may be shown to any legislator: **NO**

May Contact:

Subject: **State Govt - miscellaneous**

Received By: **chanaman**

Identical to LRB:

By/Representing: **Bruce Hoesly**

Drafter: **chanaman**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **don.dyke@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Revisor's correction bill

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 11/23/2004	csicilia 10/31/2005		_____			
/P1		csicilia 11/02/2005	chaugen 11/01/2005	_____	sbasford 11/01/2005		
/P2	csicilia 11/03/2005	csicilia 11/03/2005	rschluet 11/02/2005	_____	sbasford 11/02/2005		
/P3		csicilia	chaugen	_____	lemery		

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		11/03/2005	11/03/2005	_____	11/03/2005		
/1			rschluet	_____	mbarman	mbarman	
			11/03/2005	_____	11/03/2005	11/17/2005	
				_____	sbasford		
				_____	11/03/2005		

FE Sent For:

&lt;END&gt;

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11/03/2005

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11/03/2005

/1

rschluet \_\_\_\_\_

11/03/2005 \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

mbarman

11/03/2005

sbasford

11/03/2005

e-mail only

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Submit via email: **YES**

Requester's email: **rachel.letzing@legis.state.wi.us**

Carbon copy (CC:) to:

*don. dyke*

*Leg.  
Council*

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/P3			chaugen 11/03/2005		lemery 11/03/2005		

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PAs —  
This is the 1  
Version of a  
Revisor's Bill.

(Rachel Letzing)  
Leg. Council

11/3/05  
11/35

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/P2			rschluet 11/02/2005	_____

FE Sent For:

/P3 cjs 11/03/05

Ch 11-3

JP 11-3  
<END>

PAE  
Please send the rough copy and one single-sided typed copy to Bruce Hoesly at RSB.  
Thanks  
CJS

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/P1	/P2 11/2 05 cjs	chaugen 11/01/2005			sbasf 11/0		
FE Sent For:							

PA's

Please RUSH the rough copy and one single-sided typed copy to Bruce Hoesly at RSB.

Thanks,  
Chris

**2005 DRAFTING REQUEST****Bill**Received: **11/22/2004**Received By: **chanaman**Wanted: **As time permits**

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Extra Copies: **CJS**

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/?	chanaman	/PI gs 10/31 05	CH 11-1	CH p6 11-1			

FE Sent For:

<END>

PLEASE RETURN TO LRB WHEN YOU HAVE  
FINISHED REVIEWING

x-refs ✓  
SA ✓

2005 - 2006 LEGISLATURE

TUE

LRB-09537

P1

BEM cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Revisors bill  
Do NOT Sort  
Do NOT Gen cat

1

AN ACT ...; relating to: ???

INS X

*Analysis by the Legislative Reference Bureau*

INS Y

*The people of the state of Wisconsin, represented in senate and assembly, do  
enact as follows:*

2

(END)

INS Z

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

This is LRB-0953/p1 ins CJS  
LRB

INS X

1  
2 **AN ACT relating to:** renumbering and reorganizing various provisions of chapter 895  
3 of the statutes and creating of the statutes Chapter 995 (Revisor's Revision Bill).

*Analysis by the Legislative Reference Bureau*

INS Y  
chapter  
of the statutes from  
of the statutes  
Chapter  
This bill is proposed under authority of s. 13.93 (1) (b) for the purpose of renaming Chapter 895, "Miscellaneous General Provisions" to "Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts" to more accurately reflect the chapter's contents, to reorganize statutes within Chapter 895 into subchapters, and to move totally unrelated material into a new Chapter 995 titled "Miscellaneous Statutes." Chapter 895 was originally created as ch 331 as part of Title XXX, Provisions Common to Actions and Proceedings in all Courts, indicating that the original intent was to create a chapter for miscellaneous provisions relating to court proceedings. Over time miscellaneous provisions unrelated to courts have been placed in ch 895, apparently due to its title. This bill returns ch 895 to being a chapter related to court proceedings and creates a new chapter for truly miscellaneous statutes unrelated to courts and not falling within the subject area of any other chapter. In accordance with a change in drafting style, commas after the last item in a series are added throughout this bill. "Which" is replaced by "that" where grammatically correct. Specific changes are explained in the NOTES provided by the revisor of statutes in the body of the bill. Current

INS Z  
before  
**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

NOTE: This bill is not intended to make any substantive changes.

4 **SECTION 1.** 35.095 (1) (c) of the statutes is amended to read:

5 35.095 (1) (c) "Working day" means each day except Saturdays, Sundays, and  
6 federal and statewide legal holidays designated in s. ~~895.20~~ 995.20. ✓

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

7 **SECTION 2.** 66.0601 (2) of the statutes is amended to read:

8 66.0601 (2) CELEBRATION OF HOLIDAYS. A town, county, school board, or school  
9 district may appropriate money for the purpose of initiating or participating in  
10 appropriate celebrations of any legal holiday listed in s. ~~895.20~~ 995.20. ✓

⑨ \*\*\*\*\* NOTE: The placeholder, "Title XXX," that appears in the analysis needs to be filled in. It would be helpful to mention the specific act that created the chapter too. CJS

⑨ \*\*\*\* NOTE: I removed the <sup>scored</sup> commas <sup>-2-</sup> because it is possible that "counseling or other care" is intended to be a single element in the list. CJS

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

1 SECTION 3. 101.58 (2) (g) of the statutes is amended to read:

2 101.58 (2) (g) "Legal holiday" has the meaning provided in s. ~~895.20~~ 995.20. ✓

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

3 SECTION 4. 106.52 (3) (d) of the statutes is amended to read:

4 106.52 (3) (d) Nothing in this subsection prohibits a domestic abuse services  
5 organization, as defined in s. ~~895.67~~ 995.67 (1) (b), from providing separate shelter  
6 facilities, private home shelter care, advocacy, counseling or other care, treatment  
7 or services for persons of different sexes or from providing for separate treatment of  
8 persons based on sex with regard to the provision of shelter facilities, private home  
9 shelter care, advocacy, counseling or other care, treatment or services for persons  
10 of different sexes.

NOTE: Section 895.67 is renumbered s. 995.67 by this bill. ✓

11 SECTION 5. 134.43 (3) of the statutes is amended to read:

12 134.43 (3) Any person who is the victim of an intrusion of privacy under this  
13 section is entitled to relief under s. ~~895.50~~ 995.50 (1) and (4) unless the act is  
14 permissible under ss. 968.27 to 968.37.

NOTE: Section 895.50 is renumbered s. 995.50 by this bill. ✓

15 SECTION 6. 146.38 (3) (dm) of the statutes is amended to read:

16 146.38 (3) (dm) With regard to an action under s. ~~895.70~~ 895.441, to a court of  
17 record after issuance of a subpoena;

NOTE: Section 895.70 is renumbered s. 895.441 by this bill. ✓

18 SECTION 7. 168.05 (2) and (4) of the statutes are amended to read:

19 168.05 (2) If such <sup>PLAIN</sup> ~~any~~ petroleum product described in sub. (1) is received on a  
20 regular business day between the hours of 7:45 a.m. and 4:30 p.m., such <sup>PLAIN</sup> ~~the~~ notice

(21) required under sub. (1) shall be given forthwith immediately upon receipt of such <sup>PLAIN</sup> ~~the~~

PLAIN

PLAIN

⑨ \*\*\*\*\* NOTE: The bill ignores the x-ref to s. 895.48 here and in ss. 187.43(3)(a)5. -3- and 252.15(5)(a)11. and (5m)(a). LRB  
Doesn't this result in a substantive change, since, under the bill, s. 895.48 refers to a more limited range of situations than under current law? CJS

1 petroleum product. If received at any other time, such ~~the~~ notice shall be given  
2 between the next succeeding hours of 7:45 a.m. and 10 a.m. of a regular business day. PLAIN  
3 Provided, that if any petroleum product is received on Saturday, Sunday, or any legal  
4 holiday, designated in s. 895.20, such ~~995.20~~ ~~the~~ notice shall be given on the next  
5 following regular business day between the hours of 7:45 a.m. and 10 a.m. PLAIN comma and "such"

6 (4) For the purpose of this section, the following shall constitute a reasonable  
7 length of time in which an inspector shall take the sample herein required ~~under sub.~~

8 ~~(1)~~ ~~no IP~~ PLAIN PLAIN PLAIN  
9 ~~(2)~~ If notice is properly given to an inspector before the hour of 11:45 a.m., the  
10 inspector shall take such ~~the~~ sample before the hour of 4:30 p.m. of the day; if ~~no~~

11 ~~(b)~~ If notice is properly given between the hours of 11:45 a.m. and 4:30 p.m.,  
12 such ~~the~~ sample shall be taken before the hour of 11:45 a.m. of the next following  
13 regular business day. Saturdays, Sundays, and legal holidays, designated in s.  
14 895.20 ~~995.20~~, shall not be considered regular business days. PLAIN

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. Specific cross-references are added, disfavored terms replaced and sub. (4) is subdivided in conformity with current style.

15 SECTION 8. 175.35 (1) (c) of the statutes is amended to read:

16 175.35 (1) (c) "Working day" means each day except Saturday, Sunday, or a  
17 legal holiday under s. 895.20 ~~995.20~~.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

18 SECTION 9. 187.33 (3) (a) 5. of the statutes is amended to read:

19 187.33 (3) (a) 5. Proceedings based upon a cause of action for which the  
20 volunteer is immune from liability under s. 146.31 (2) and (3), 146.37, ~~895.44~~  
21 ~~895.475~~, 895.48, 895.482, 895.51, or 895.52.

NOTE: Section 895.44 is renumbered s. 895.475 by this bill. ✓

22 SECTION 10. 187.43 (3) (a) 5. of the statutes is amended to read:

⑨ \*\*\*\*\* NOTE: As we discussed on the phone, I have altered the treatment of s. 168.05(2) and (4) so that only the x-refs to s. 895.20 are adjusted. (Retaining the other changes would necessitate treating all the subsections of s. 168.05, not just subs. (2) and (4), to bring them similarly up to date.) ~~not~~ ~~the~~ ~~revisers~~ ~~note~~ ~~correspondingly~~. CJS

INS TUV

1 187.43 (3) (a) 5. Proceedings based upon a cause of action for which the  
2 volunteer is immune from liability under s. 146.31 (2) and (3), 146.37, ~~895.44~~  
3 895.475, 895.48, 895.482, 895.51, or 895.52.

NOTE: Section 895.44 is renumbered s. 895.475 by this bill. ✓

4 SECTION 11. 215.26 (5) of the statutes is amended to read:

5 215.26 (5) LEGAL HOLIDAYS. The division shall designate such of the legal  
6 holidays listed in s. ~~895.20~~ 995.20 as days on which no association may transact  
7 business or be open for the purpose of transacting business. For purposes of this  
8 subsection, operation of a remote service unit as defined in s. 215.13 (46) (a) 1. or an  
9 unstaffed facility does not constitute the transaction of business.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

10 SECTION 12. 253.10 (6) (b) of the statutes is amended to read:

11 253.10 (6) (b) A person who has been awarded damages under par. (a) shall,  
12 in addition to any damages awarded under par. (a), be entitled to not less than \$1,000  
13 nor more than \$10,000 in punitive damages for a violation that satisfies a standard  
14 under s. ~~895.85~~ 895.043 (3).

NOTE: Section 895.85 is renumbered s. 895.043 by this bill. ✓

15 SECTION 13. 285.61 (2) (a) 1. of the statutes is amended to read:

16 285.61 (2) (a) 1. Within 20 days, excluding statewide legal holidays specified  
17 in s. ~~895.20~~ 995.20, after receipt of the application the department shall provide  
18 written notice to the applicant describing specifically all of the plans, specifications,  
19 and any other information necessary to determine if the proposed construction,  
20 reconstruction, replacement, or modification will meet the requirements of this  
21 chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

22 SECTION 14. 285.62 (2) (a) 1. of the statutes is amended to read:

1           285.62 (2) (a) 1. Within 20 days, excluding statewide legal holidays specified  
2   in s. ~~895.20~~ 995.20, after receipt of the application the department shall provide  
3   written notice to the applicant describing specifically any additional information  
4   required under sub. (1) necessary to determine if the source, upon issuance of the  
5   permit, will meet the requirements of this chapter and s. 299.15 and rules  
6   promulgated under this chapter and s. 299.15.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

7           **SECTION 15.** 345.48 (1) of the statutes is amended to read:

8           345.48 (1) In this section, "working days" means all days except Saturdays,  
9   Sundays, and legal holidays under s. ~~895.20~~ 995.20.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

10          **SECTION 16.** 562.01 (3m) of the statutes is amended to read:

11          562.01 (3m) "Business day" means a business day, as defined in s. 421.301 (6),  
12   that is not a legal holiday under s. ~~895.20~~ 995.20 or a federal legal holiday.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

13          **SECTION 17.** 801.15 (1) (a) of the statutes is amended to read:

14          801.15 (1) (a) In this subsection, "holiday" means any day ~~which~~ that is a  
15   holiday provided in s. 230.35 (4) (a) or a statewide legal holiday provided in s. ~~895.20~~  
16   995.20 or both, and a full day on Good Friday.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

17          **SECTION 18.** 813.122 (3) (b) 2. of the statutes is amended to read:

18          813.122 (3) (b) 2. That all persons, other than the parties, their attorneys,  
19   witnesses, child victim advocates, service representatives, as defined in s. ~~895.73~~  
20   895.45 (1) (c), court personnel and any guardian ad litem, be excluded from any  
21   hearing under this section.

NOTE: Section 895.73 is renumbered s. 895.45 by this bill. ✓

1        **SECTION 19.** 814.04 (intro.) of the statutes is amended to read:

2        **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),  
3        106.50 (6) (i) and (6m) (a), ~~115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025,~~  
4        814.245, 895.035 (4), ~~895.10~~ 995.10 (3), ~~895.75~~ 895.443 (3), ~~895.77~~ 895.444 (2), ~~895.79~~  
5        895.445 (3), 895.80 895.446 (3), 943.212 (2) (b), 943.245 (2) (d), and 943.51 (2) (b),  
6        when allowed costs shall be as follows:

NOTE: Sections 895.10, 895.75, 895.77, 895.79, and 895.80 are renumbered s.  
995.10, 895.443, 895.444, 895.445, and 895.446 by this bill.

7        **SECTION 20.** 893.585 of the statutes is amended to read:

8        **893.585 Sexual exploitation by a therapist.** (1) Notwithstanding ss. 893.54,  
9        893.55, and 893.57, an action under s. ~~895.70~~ 895.441 for damages shall be  
10        commenced within 3 years after the cause of action accrues or be barred.

11        (2) If a person entitled to bring an action under s. ~~895.70~~ 895.441 is unable to  
12        bring the action due to the effects of the sexual contact or due to any threats,  
13        instructions, or statements from the therapist, the period of inability is not part of  
14        the time limited for the commencement of the action, except that this subsection  
15        shall not extend the time limitation by more than 15 years.

16        (3) This section does not apply to damages incurred under s. ~~895.71~~ 895.442.

NOTE: Section 895.70 is renumbered s. 895.441 by this bill and ~~section~~ 895.71 is  
renumbered s. 895.442 by this bill.

17        **SECTION 21.** 893.587 of the statutes is amended to read:

18        **893.587 Sexual assault of a child; limitation.** An action to recover damages  
19        for injury caused by an act that would constitute a violation of s. 948.02, 948.025,  
20        948.06, or 948.095 or would create a cause of action under s. ~~895.71~~ 895.442 shall be  
21        commenced before the injured party reaches the age of 35 years or be barred.

NOTE: Section 895.71 is renumbered s. 895.442 by this bill. ✓

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\*\*\* NOTE: The title of the chapter <sup>-7-</sup> should be general enough to include all the contents of the chapter. This title, however, is identical to the title of subchapter I, and, as a result, seem to ignore the material in subchapter II. If you change chapter title (or subchapter titles) be sure to make corresponding change in analysis or notes where titles are quoted. CJS

1 SECTION 22. 893.93 (1) (e) of the statutes is amended to read:

2 893.93 (1) (e) An action under s. 895.77 895.444.

NOTE: Section 895.77 is renumbered s. 895.444 by this bill. ✓

SECTION 23. Chapter 895 (title) of the statutes is amended to read:

Chapter 895 (title) DAMAGES, LIABILITY, AND MISCELLANEOUS  
GENERAL PROVISIONS REGARDING ACTIONS IN COURTS

NOTE: Makes ch 895 (title) more specific.

6 SECTION 24. Subchapter I (title) of Chapter 895 [precedes 895.01] of the statutes

7 is created to read:

8 Subchapter I (title) of Chapter 895 Damages, Liability, and Miscellaneous  
9 Provisions Regarding Actions in Courts

NOTE: Ch 895 is divided into 2 subchapters, one for exemptions to liability and one for all other provisions currently contained in ch 895 that are directly related to court actions.

10 SECTION 25. 895.045 (2) of the statutes is amended to read:

11 895.045 (2) CONCERTED ACTION. Notwithstanding sub. (1), if 2 or more parties  
12 act in accordance with a common scheme or plan, those parties are jointly and  
13 severally liable for all damages resulting from that action, except as provided in s.  
14 895.85 895.043 (5). ✓

NOTE: Section 895.85 is renumbered s. 895.043 by this bill.

15 SECTION 26. 895.10 of the statutes is renumbered 995.10.

NOTE: Moves s. 895.10, Tobacco product agreement, to new Chapter 995, Miscellaneous Statutes. ✓

16 SECTION 27. 895.11 of the statutes is renumbered 995.11.

NOTE: Moves s. 895.11, Payments under the tobacco settlement agreement, to new Chapter 995, Miscellaneous Statutes. ✓

17 SECTION 28. 895.12 of the statutes is renumbered 995.12, and 995.12 (1) (b), (e),

18 (h), (j), (k), (2) (a) 1., 5. c., d., g., 7., 8., (b) 2. a., b., (3) (a), (4) (b), (c), and (12) as  
19 renumbered, are amended to read:

AAAA NOTE: Bob Nelson recommended changing "Liability" to "Recovery" in this title, which would address the issue I raise in my note to the preceding bill section CJS (but it is still necessary to make sure changed title isn't misquoted in analysis or notes)

1           995.12 (1) (b) "Cigarette" has the meaning given in s. ~~895.10~~ 995.10 (1) (d).

2           (e) "Master settlement agreement" has the meaning given in s. ~~895.10~~ 995.10

3 (1) (e).

4           (h) "Qualified escrow fund" has the meaning given in s. ~~895.10~~ 995.10 (1) (f).

5           (j) "Tobacco product manufacturer" has the meaning given in s. ~~895.10~~ 995.10

6 (1) (i).

7           (k) "Units sold" has the meaning given in s. ~~895.10~~ 995.10 (1) (j).

8           (2) (a) 1. Every tobacco product manufacturer whose cigarettes are sold in this  
9 state, whether directly or through a distributor, retailer, or similar intermediary or  
10 intermediaries, shall execute and deliver in the manner prescribed by the attorney  
11 general a certification to the department and attorney general, no later than the 30th  
12 day of April each year, certifying that as of that date the tobacco product  
13 manufacturer is either a participating manufacturer or is in full compliance with s.  
14 ~~895.10~~ 995.10 (2) (b).

15           5. c. That the nonparticipating manufacturer is in full compliance with this  
16 section and s. ~~895.10~~ 995.10.

17           d. The name, address, and telephone number of the financial institution where  
18 the nonparticipating manufacturer has established the qualified escrow fund  
19 required under s. ~~895.10~~ 995.10 (2) (b).

20           g. The amount and date of any withdrawal or transfer of funds the  
21 nonparticipating manufacturer made at any time from the fund or from any other  
22 qualified escrow fund into which it ever made escrow payments under s. ~~895.10~~  
23 995.10 (2) (b).

1           7. A nonparticipating manufacturer may not include a brand family in its  
2 certification unless it affirms that the brand family constitutes its cigarettes for  
3 purposes of s. ~~895.10~~ 995.10.

4           8. Nothing in this section shall be construed as limiting or otherwise affecting  
5 the state's right to maintain that a brand family constitutes cigarettes of a different  
6 tobacco product manufacturer for purposes of calculating payments under the  
7 master settlement agreement or for purposes of s. ~~895.10~~ 995.10.

8           (b) 2. a. An escrow payment required under s. ~~895.10~~ 995.10 (2) (b) for any  
9 period for any brand family, whether or not listed by such nonparticipating  
10 manufacturer, has not been fully paid into a qualified escrow fund governed by a  
11 qualified escrow agreement that has been approved by the attorney general.

12           b. Any outstanding final judgment, including interest on that judgment, for a  
13 violation of s. ~~895.10~~ 995.10 has not been fully satisfied for the brand family or  
14 manufacturer.

15           (3) (a) *Requirement for agent for service of process.* Any nonresident or foreign  
16 nonparticipating manufacturer that has not registered to do business in this state  
17 as a foreign corporation or business entity shall, as a condition precedent to having  
18 its brand families included or retained in the directory under sub. (2) (b), appoint and  
19 continually engage the services of an agent in this state to act as agent for the service  
20 of process on whom all processes, and any action or proceeding against it concerning  
21 or arising out of the enforcement of this section and s. ~~895.10~~ 995.10, may be served  
22 in any manner authorized by law. That service shall constitute legal and valid  
23 service of process on the nonparticipating manufacturer. The nonparticipating  
24 manufacturer shall provide the name, address, phone number, and proof of the  
25 appointment and availability of the agent to the attorney general.

(4) (b) *Disclosure of information.* The department is authorized to disclose to the attorney general any information received under this section and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this section. The department and attorney general shall share with each other the information received under this section, and may share such information with other federal, state, or local agencies only for purposes of enforcement of this section, s. ~~895.10~~ 995.10, or corresponding laws of other states.

(c) *Verification of qualified escrow fund.* The attorney general may require at any time from the nonparticipating manufacturer proof, from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with s. ~~895.10~~ 995.10, of the amount of money in that fund, exclusive of interest, the amount and date of each deposit into the fund, and the amount and date of each withdrawal from the fund.

(12) CONSTRUCTION. If a court finds that the provisions of this section and of s. ~~895.10~~ 995.10 conflict and cannot be harmonized, then the provisions of s. ~~895.10~~ 995.10 shall control. If any part of this section causes s. ~~895.10~~ 995.10 to no longer constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, then that portion of this section is not valid.

NOTE: Moves s. 895.12, Certification under the tobacco settlement agreement, to new Chapter 995, Miscellaneous Statutes. Section 895.10 is renumbered to s. 995.10 by this bill.

\*\*\*\*\* NOTE: See my addition in subsection (12). CJS  
SECTION 29. 895.20 of the statutes is renumbered 995.20.

NOTE: Moves s. 895.20, Legal holidays, to new Chapter 995, Miscellaneous Statutes.

SECTION 30. 895.22 of the statutes is renumbered 995.22.

NOTE: Moves s. 895.22, Wisconsin family month, week and Sunday, to new Chapter 995, Miscellaneous Statutes.

SECTION 31. 895.225 of the statutes is renumbered 995.225.

NOTE: Moves s. 895.225, Fire Prevention Week, to new Chapter 995, Miscellaneous Statutes.

1 **SECTION 32.** 895.23 of the statutes is renumbered 995.23.

NOTE: Moves s. 895.23 Indian Rights Day, to new Chapter 995, Miscellaneous Statutes.

2 **SECTION 33.** 895.36 (title) of the statutes is amended to read:

3 **895.36 (title) Process against corporation or limited liability company**

4 **officer.**

NOTE: Makes title more specific to clarify the applicability of the statute.

5 **SECTION 34.** 895.37 (title) of the statutes is amended to read:

6 **895.37 (title) Abrogation of defenses in employee personal injury**

7 **actions.**

NOTE: Makes title more specific to clarify the applicability of the statute.

8 **SECTION 35.** 895.38 of the statutes is renumbered 112.09.

NOTE: Moves s. 895.38, Surety, how discharged, to ch 112, Fiduciaries, for more logical placement.

9 **SECTION 36.** 895.41 of the statutes is renumbered 103.165.

NOTE: Moves s. 895.41, Employee's cash bonds to be held in trust; duty of employer; penalty, to ch 103, Employment Regulations, for more logical placement.

10 **SECTION 37.** 895.437 of the statutes is renumbered 134.96.

NOTE: Moves s. 895.437, Use of lodging establishments, which contains various regulations relating to the use of lodging establishments for purposes relating to alcohol consumption by minors and illegal use of controlled substances and allowing lodging establishments to require a deposit when lodging is applied for, to ch 134, Miscellaneous Trade Regulations, for more logical placement.

11 **SECTION 38.** 895.44 of the statutes is renumbered 895.475.

NOTE: Moves s. 895.44, Exemption from civil liability for furnishing safety, so it is located in Subchapter II, Exemptions From Liability.

12 **SECTION 39.** Subchapter II (title) of Chapter 895 [precedes 895.475] of the statutes is created to read:

13 **Subchapter II (title) of Chapter 895 Exemptions From Liability**

NOTE: Ch. 895 is divided into two subchapters, one for exemptions to liability and one for all other provisions currently contained in ch. 895 that are directly related to court actions.

14 **Subchapter II (title) of Chapter 895 Exemptions From Liability**

NOTE: Bob Nelson recommended changing this title to "Exemptions From Liability". This change addresses the question I raise in a sample.

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④ \*\*\*\* NOTE: Subsection (1m) refers to "voluntary" health care not "emergency" health care. Either the section title and the note should be changed or ~~sub. (1m)~~ sub. (1m) should be moved. Also, see my changes to revisor's note. CJS

SECTION 40. 895.48 (title) of the statutes is amended to read:

895.48 (title) Civil liability exemption; emergency medical care, athletic events health care, hazardous substances and information concerning paternity.

NOTE: This bill rennumbers s. 895.48 (2) and (3) to be separate sections as the subject matter of each, actions regarding hazardous materials emergencies and distributing information to new parents about paternity, does not relate to emergency medical care and retains in the section 3 subsections that relate to emergency medical care.

SECTION 41. 895.48 (2) of the statutes is renumbered 895.4802, and 895.4802 (1)

(intro.), (3) (intro.), (4) (b) and (4) (c) as renumbered, are amended to read:

895.4802 (1) (intro.) In this subsection:

(3) (intro.) The immunity under par. (b) sub. (2) does not extend to any person:

(4) (b) The good faith of any hazardous substance predictor or any person who provides the technology to make a prediction is presumed in any civil action. Any person who asserts that the acts or omissions under subd. 1. par. (a) were not made in good faith has the burden of proving that assertion by clear and convincing evidence.

(c) The immunity under subd. 1. par. (a) does not extend to any person described under par. (c) 1., 2. or 3 sub. (3) (a), (b), or (c).

NOTE: This bill rennumbers s. 895.48 (2) to be separate section, s. 895.4802, as the subject matter, actions regarding hazardous materials emergencies, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

SECTION 42. 895.48 (3) of the statutes is renumbered 895.4803.

NOTE: This bill rennumbers s. 895.48 (3) to be a separate section, s. 4803, as the subject matter, distributing information to new parents about paternity, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

SECTION 43. 895.4802 (title) of the statutes is created to read:

895.4802(title) Civil liability exemption; hazardous materials.

NOTE: This bill rennumbers s. 895.48 (2) to be a separate section, s. 895.4802, as the subject matter, actions regarding hazardous materials emergencies, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

④ \*\*\*\* NOTE: The revisor's note may have to be adjusted to reflect changes made in ~~treatment of s. 895.48 (1m)~~ response to my note under treatment of s. 895.48 (title). CJS

⑨ \*\*\*\* NOTE: The revisor's note may have to be adjusted to reflect changes made in response to my note under the treatment of s. 895.48 (title). CJS

SECTION 44. 895.4803 (title) of the statutes is created to read:

**895.4803 (title) Civil liability exemption; information concerning paternity.**

NOTE: This bill rennumbers s. 895.48 (3) to be a separate section, s. 895.4803, <sup>because</sup> the subject matter, distributing information to new parents about paternity, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

SECTION 45. 895.49 of the statutes is renumbered 895.447.

<sup>that</sup> NOTE: Moves s. 895.49, Certain agreements to limit or eliminate tort liability void, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts.

SECTION 46. 895.495 of the statutes is renumbered 895.448.

<sup>that</sup> NOTE: Moves s. 895.495, Safety devices on farm equipment, ordinary negligence, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts.

SECTION 47. 895.50 of the statutes is renumbered 995.50.

NOTE: Moves s. 895.50, Right of privacy, to new Chapter 995, Miscellaneous Statutes.

SECTION 48. 895.505 of the statutes is renumbered 134.97.

NOTE: Moves s. 895.505, Disposal of records containing personal information, which is applicable to financial institutions, medical businesses, and tax preparation businesses, to <sup>Chapter</sup> ch 134, Miscellaneous Trade Regulations, for more logical placement.

SECTION 49. 895.51 (title) of the statutes is amended to read:

**895.51 (title) Liability Civil liability exemption: food donation, sale or distribution.**

NOTE: Conforms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section. ✓

SECTION 50. 895.515 (title) of the statutes is amended to read:

**895.515 (title) Liability Civil liability exemption; equipment or technology donation.**

NOTE: Conforms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section. ✓

SECTION 51. 895.517 (title) of the statutes is amended to read:

④ \*\*\* NOTE: Should subchapter title be adjusted to better include this statute section, in as much as the section does not describe an "exemption" from liability? CJS

1 895.517 (title) **Liability Civil liability exemption: solid waste donation**  
2 **or sale.** create autoref 123

NOTE: Confirms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

3 SECTION 52. 895.525 (title) of the statutes is amended to read:

4 895.525 (title) **Participation in recreational activities; restrictions on**  
5 **civil liability, assumption of risk.** create autoref 456

NOTE: Makes title more specific to clarify the applicability of the statute.

6 SECTION 53. 895.527 (title) of the statutes is amended to read:

7 895.527 (title) **Sport shooting range activities; limitations on liability**  
8 **and restrictions on operation.**

NOTE: Makes title more specific to clarify the applicability of the statute.

9 SECTION 54. 895.53 (title) of the statutes is amended to read:

10 895.53 (title) **Liability Civil and criminal liability exemption; tests for**  
11 **intoxication.**

NOTE: Confirms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

12 SECTION 55. 895.55 (title) of the statutes is amended to read:

13 895.55 (title) **Liability for damages exemption; oil discharge control.**

NOTE: Makes title more specific to clarify the applicability of the statute.

14 SECTION 56. 895.555 (title) of the statutes is amended to read:

15 895.555 (title) **Liability Civil liability exemption; anhydrous ammonia.**

NOTE: Confirms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

16 SECTION 57. 895.65 of the statutes is renumbered 103.99.

NOTE: Moves s. 895.65, Government employer retaliation prohibited, which prohibits government employers from retaliating, by engaging in disciplinary action, against employees lawfully disclosing information, is moved to 103.99, Employment Regulations, for more logical placement.

17 SECTION 58. 895.67 of the statutes is renumbered 995.67.

④ \*\*\* NOTE: Bob Nelson recommends leaving this title alone. CJS

INS  
QRS

Chapter 230

230.90 (1)  
has been removed, is  
repealed.  
(or 895.65 (1) RP  
+ 895.65 (2) (3) (4)  
(4) RP  
230.90 (1)  
(2), (3) and (4)

Subch II

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230.90

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definition  
in 895.65  
not needed,  
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II!

⑨ +++++ NOTE: Is proposed title too specific? It seems like this section provides for a number of things, not all of which are directly related to the "cause of action" — e.g., punitive damages. CJS

NOTE: Moves s. 895.67, Domestic abuse services; prohibited disclosures, to new Chapter 995, Miscellaneous Statutes.

1 SECTION 59. 895.70 of the statutes is renumbered 895.441 and 895.441 (title),  
2 as renumbered, is amended to read:

3 **895.441 (title) Sexual exploitation by a therapist; cause of action.**

NOTE: <sup>that</sup> Moves s. 895.70, Sexual exploitation by a therapist, which provides a cause of action, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

4 SECTION 60. 895.71 of the statutes is renumbered 895.442 and 895.442 (title)  
5 and (5), as renumbered, are amended to read:

6 **895.442 (title) Sexual exploitation by a member of the clergy; cause of**  
7 **action.**

8 (5) SILENCE AGREEMENTS. Any contract or agreement concerning the settlement  
9 of any claim under this section that limits or eliminates the right of the injured  
10 person to disclose the sexual contact described under sub. (2) to another member of  
11 the religious organization to which the member of the clergy under sub. (2) belongs,  
12 to a therapist, as defined in s. ~~895.70~~ 895.441 (1) (e), to a person listed under s. 48.981  
13 (2) (a), or to a district attorney, is void.

NOTE: <sup>that</sup> Moves s. 895.71, Sexual exploitation by a member of the clergy, which provides a cause of action, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute. Section 895.70 is renumbered s. 895.441 by this bill.

14 SECTION 61. 895.73 of the statutes is renumbered 895.45 and 895.45 (title), as  
15 renumbered, is amended to read:

16 **895.45 (title) Service representatives for adult abusive conduct**  
17 **complainants.**

NOTE: Moves s. 895.73, Service representatives, which <sup>that</sup> allows <sup>adult</sup> abuse victims appearing in court to have a service representative present, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages,

④ \*\*\*\* NOTE: I added the - 16 - word "adult" to the revisor's note. CJS

including punitive damages LRB

④ \*\*\*\* NOTE: Is proposed title too specific? Section also addresses damages that may be recovered. CJS

Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

1

**SECTION 62.** 895.75 of the statutes is renumbered 895.443 and 895.443 (title),

2

as renumbered, is amended to read:

3

**895.443 (title) Physical injury, emotional distress, loss or damage**

4

**suffered by members of certain groups; cause of action.**

NOTE: Moves s. 895.75, Physical injury, emotional distress, loss or damage suffered by members of certain groups, which allows for recovery for emotional damages in certain actions, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

5

**SECTION 63.** 895.76 of the statutes is renumbered 895.455.

NOTE: Moves s. 895.76, Limits on recovery by prisoners, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts.

6

**SECTION 64.** 895.77 of the statutes is renumbered 895.444 and 895.444 (title),

7

as renumbered, is amended to read:

8

**895.444 (title) Injury caused by criminal gang activity; cause of action.**

NOTE: Moves s. 895.77, Injury caused by criminal gang activity, which creates a cause of action, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

9

**SECTION 65.** 895.78 of the statutes is renumbered 895.457.

NOTE: Moves s. 895.78, Limiting felon's right to damages, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts.

10

**SECTION 66.** 895.79 of the statutes is renumbered 895.445 and 895.445 (title),

11

as renumbered, is amended to read:

12

**895.445 (title) Damage to certain machines; cause of action.**

NOTE: Moves s. 895.79, Damage to certain machines, which creates a cause of action, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

13

**SECTION 67.** 895.80 of the statutes is renumbered 895.446 and 895.446 (title),

14

as renumbered, is amended to read:

④ \*\*\*\* NOTE: Is title too specific? Section also authorizes treble damages. CJS

④ \*\*\*\* NOTE: Is title too specific? It seems like section does more than just create cause of action. For example, it lays out injunctions and orders that a court may impose. CJS

① \*\*\*\* NOTE: Is proposed title too specific? What about changing this and similar titles to ~~for~~ read, "Action for...". Such a title would ~~cover both~~ cover both the cause of the action and the damages ~~for~~ that can be recovered under the action. CJS

1 **895.446 (title) Property damage or loss caused by crime; cause of action.**

NOTE: Moves s. 895.80, Property damage or loss, which creates a cause of action, so it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

2 **SECTION 68. 895.85 of the statutes is renumbered 895.043.**

NOTE: Moves s. 895.85, Punitive damages, so <sup>that</sup> it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts.

3 **SECTION 69. 938.346 (1) (h) 1. of the statutes is amended to read:**

4 938.346 (1) (h) 1. The right to be accompanied by a service representative, as  
5 provided under s. ~~895.73~~ 895.45. ✓

NOTE: Section 895.73 is renumbered s. 895.45 by this bill. ✓

6 **SECTION 70. 950.04 (1v) (c) of the statutes is amended to read:**

7 950.04 (1v) (c) To be accompanied by a service representative, as provided  
8 under s. ~~895.73~~ 895.45.

NOTE: Section 895.73 is renumbered s. 895.45 by this bill. ✓

9 **SECTION 71. 970.03 (4) (a) of the statutes is amended to read:**

10 970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02,  
11 948.025, 948.05, 948.06, or 948.095, the court may exclude from the hearing all  
12 persons who are not officers of the court, members of the complainant's or defendant's  
13 families, or others considered by the court to be supportive of the complainant or  
14 defendant, the service representative, as defined in s. ~~895.73~~ 895.45 (1) (c), or other  
15 persons required to attend, if the court finds that the state or the defendant has  
16 established a compelling interest that would likely be prejudiced if the persons were  
17 not excluded. The court may consider as a compelling interest, among others, the  
18 need to protect a complainant from undue embarrassment and emotional trauma.

NOTE: Section 895.73 is renumbered s. 895.45 by this bill. ✓

19 **SECTION 72. 990.001 (4) (e) of the statutes is amended to read:**

1           990.001 (4) (e) "Legal holiday" as used in this section means any statewide legal  
2 holiday provided in s. ~~895.20~~ 995.20. When an act is permitted to be done by the use  
3 of the postal service, and the last day within the time prescribed by law for  
4 performing such act falls on a legal public holiday under federal law, or other holiday  
5 designated by the president such that the postal service does not receive registered  
6 mail or make regular deliveries on that day, the day shall be considered a legal  
7 holiday for purposes of this section.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill. ✓

8           **SECTION 73.** Chapter 995 (title) of the statutes is created to read: ^

9           [ **Chapter 995** ~~(title)~~ <sup>Ⓟ</sup> **MISCELLANEOUS STATUTES** *ae* ]

all caps  
all bold  
center text  
use correct  
components

<end of INS Z>

Ⓟ \*\*\*\* NOTE:

INS LMN

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0953/P1ins1

INS A

NOTE: Chris replace treatment of 814.04 (intro.) with the following:

SECTION 1. 814.04 (intro.) of the statutes, as affected by Supreme Court Order 03-06 (~~Supplemental Order~~, 2005 WL 86), is amended to read:

**814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m), 106.50 (6) (i) and (6m) (a), 115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025, 802.05, 895.035 (4), 895.10 995.10 (3), 895.75 895.443 (3), 895.77 895.444 (2), 895.79 895.445 (3), ~~895.80~~ 895.446 (3), 943.212 (2) (b), 943.245 (2) (d), and 943.51 (2) (b),

when allowed costs shall be as follows:

NOTE: Sections 895.10, 895.75, 895.77, 895.79, and 895.80 are renumbered ss. 995.10, 895.443, 895.444, 895.445, and 895.446 by this bill.

and 995.10(3)<sup>5</sup>

④ ~~AAAA~~ NOTE: See my changes to statutory text (to add missing striking and correct sequence of x-refs). CJS

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

INS QRS

create  
autoref ABCD

④ SECTION #. 895.65 of the statutes is  
renumbered 230.90.

Bob Nelson

④ ~~NOTE~~ NOTE: This section replaces <sup>(CS)</sup>SECTION 57 in the original draft. ~~REVISOR~~ and Rich Champagne recommended the change. Because s. 895.65 is about state employees it should go in ch. 230. In addition ~~the~~ Bob and Rick suggested making it into subch. IV of chapter 230 because it is about a subject of the same kind as that in subch. III of ch. 230, but with a different legal and constitutional framework and history. I have created the subch. IV (title), as recommended by Bob Nelson, in SECTION <sup>(CS)</sup> of the bill. CJS

use auto ref P  
(from INS TUV)

④ SECTION #. Subchapter IV (title) of chapter 230 [precedes 230.90] of the statutes is created to read:

④

CHAPTER 230

all caps

B

④

SUBCHAPTER IV

④

EMPLOYEE FREEDOM OF SPEECH <sup>hard return</sup>  
PROTECTION

all caps

No B

④ ~~NOTE~~ NOTE: I have added this bill section. See my note to SECTION <sup>(CS)</sup> for the reason. Do you want to add a revisor's note? CJS

use  
auto  
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ABCD

(from INS QRS)

INS TUV

INS LMN

~~asked~~~~asked~~

(no#)

There are cross-references to "ch. 885 to 895" in s. 146.38(3)(e) and s. 972.11(1). I asked Bob Nelson to check these to see if any of the material moved out of ch. 895 by the bill needed to be added to these cross-references. Bob wasn't sure that chapter 895 should ever have been cross-referenced in these places, but notes that s. 895.41, which may be relevant, is moved out of ch. 895 by the bill. I think you may need to give Bob a call to work out how you want to proceed. CJS



State of Wisconsin  
2005 - 2006 LEGISLATURE

Please return to LRB when  
you have finished reviewing

LRB-0953/P1

BEM:cjs:cl

stays

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Revisor's bill  
D. NOT Sort  
D. NOT Gen cat

INSERTS

- 1 **AN ACT relating to:** renumbering and reorganizing various provisions of chapter  
2 895 of the statutes and creating chapter 995 of the statutes. (Revisor's Revision  
3 Bill).

*Analysis by the Legislative Reference Bureau*

This bill is proposed under authority of s. 13.93 (1) (b) for the purpose of renaming chapter 895 of the statutes from "Miscellaneous General Provisions" to "Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts" to more accurately reflect the chapter's contents, to reorganize statutes within chapter 895 of the statutes into subchapters, and to move unrelated material into a new chapter 995 of the statutes titled "Miscellaneous Statutes." Chapter 895 was originally ~~created as~~ <sup>numbered</sup> chapter 331 as part of Title XXX, Provisions Common to Actions and Proceedings in all Courts, indicating that the original intent was to create a chapter for miscellaneous provisions relating to court proceedings. Over time miscellaneous provisions unrelated to courts have been placed in chapter 895, apparently due to its title. This bill returns chapter 895 to being a chapter related to court proceedings and creates a new chapter for truly miscellaneous statutes unrelated to courts and not falling within the subject area of any other chapter. In accordance with current drafting style, commas before the last item in a series are added throughout this bill. "Which" is replaced by "that" where grammatically

by Chapter 4, Laws of 1925, and  
by Chapter 4, Laws of 1925,

correct. Specific changes are explained in the NOTES provided by the revisor of statutes in the body of the bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

~~\*\*\*NOTE: The placeholder, "Title XXX," that appears in the analysis needs to be filled in. It would be helpful to mention the specific act that created the chapter too. CJS~~

~~NOTE: This bill is not intended to make any substantive changes!~~

~~SECTION 1. 35.095 (1) (c) of the statutes is amended to read:~~

35.095 (1) (c) "Working day" means each day except Saturdays, Sundays, and federal and statewide legal holidays designated in s. ~~895.20~~ 995.20.

~~NOTE: Section 895.20 is renumbered s. 995.20 by this bill.~~

~~SECTION 2. 66.0601 (2) of the statutes is amended to read:~~

66.0601 (2) CELEBRATION OF HOLIDAYS. A town, county, school board, or school district may appropriate money for the purpose of initiating or participating in appropriate celebrations of any legal holiday listed in s. ~~895.20~~ 995.20.

~~NOTE: Section 895.20 is renumbered s. 995.20 by this bill.~~

~~SECTION 3. 101.58 (2) (g) of the statutes is amended to read:~~

101.58 (2) (g) "Legal holiday" has the meaning provided in s. ~~895.20~~ 995.20.

~~NOTE: Section 895.20 is renumbered s. 995.20 by this bill.~~

~~SECTION 4. 106.52 (3) (d) of the statutes is amended to read:~~

106.52 (3) (d) Nothing in this subsection prohibits a domestic abuse services organization, as defined in s. ~~895.67~~ 995.67 (1) (b), from providing separate shelter facilities, private home shelter care, advocacy, counseling or other care, treatment or services for persons of different sexes or from providing for separate treatment of persons based on sex with regard to the provision of shelter facilities, private home shelter care, advocacy, counseling or other care, treatment or services for persons of different sexes.

④ \*\*\*\*\* NOTE: Please reply to 4-star note above ~~it looked like~~ (it looked like you may not have read it on last go-round). CJS

NOTE: Section 895.67 is renumbered s. 995.67 by this bill.

\*\*\*NOTE: I removed the scored commas because it is possible that "counseling or other care" is intended to be a single element in the list. CJS

1 SECTION 5. 134.43 (3) of the statutes is amended to read:

2 134.43 (3) Any person who is the victim of an intrusion of privacy under this  
3 section is entitled to relief under s. ~~895.50~~ 995.50 (1) and (4) unless the act is  
4 permissible under ss. 968.27 to 968.37.

NOTE: Section 895.50 is renumbered s. 995.50 by this bill.

5 SECTION 6. 146.38 (3) (dm) of the statutes is amended to read:

6 146.38 (3) (dm) With regard to an action under s. ~~895.70~~ 895.441, to a court of  
7 record after issuance of a subpoena;

NOTE: Section 895.70 is renumbered s. 895.441 by this bill.

8 SECTION 7. 168.05 (2) and (4) of the statutes are amended to read:

9 168.05 (2) If such petroleum product is received on a regular business day  
10 between the hours of 7:45 a.m. and 4:30 p.m., such notice shall be given forthwith  
11 upon receipt of such petroleum product. If received at any other time, such notice  
12 shall be given between the next succeeding hours of 7:45 a.m. and 10 a.m. of a regular  
13 business day. Provided, that if any petroleum product is received on Saturday,  
14 Sunday, or any legal holiday, designated in s. ~~895.20~~ 995.20, such notice shall be  
15 given on the next following regular business day between the hours of 7:45 a.m. and  
16 10 a.m.

17 (4) For the purpose of this section, the following shall constitute a reasonable  
18 length of time in which an inspector shall take the sample herein required: If notice  
19 is properly given to an inspector before the hour of 11:45 a.m., the inspector shall take  
20 such sample before the hour of 4:30 p.m. of the day; if notice is properly given between  
21 the hours of 11:45 a.m. and 4:30 p.m., such sample shall be taken before the hour of

INS  
XA

1 11:45 a.m. of the next following regular business day. Saturdays, Sundays, and legal  
 2 holidays, designated in s. 895.20 995.20, shall not be considered regular business  
 3 days.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

\*\*\*\*NOTE. As we discussed on the phone, I have altered the treatment of s. 168.05  
 (2) and (4) so that only the x-refs to s. 895.20 are adjusted. (Retaining the other changes  
 would necessitate treating all the subsections of s. 168.05, not just subs. (2) and (4), to  
 bring them similarly up to date.) I also adjusted the revisors note correspondingly. CJS

4 **SECTION 8.** 175.35 (1) (c) of the statutes is amended to read:

5 175.35 (1) (c) "Working day" means each day except Saturday, Sunday, or a  
 6 legal holiday under s. 895.20 995.20.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

7 **SECTION 9.** 187.33 (3) (a) 5. of the statutes is amended to read:

8 187.33 (3) (a) 5. Proceedings based upon a cause of action for which the  
 9 volunteer is immune from liability under s. 146.31 (2) and (3), 146.37, 895.44  
 10 895.475, 895.48, 895.482, 895.51, or 895.52.

NOTE: Section 895.44 is renumbered s. 895.475 by this bill.

\*\*\*\*NOTE: The bill ignores the x-ref to s. 895.48 here and in ss. 187.43 (3) (a) 5. and  
 252.15 (5) (a) 11. and (5m) (a). Doesn't this result in a substantive change, since, under  
 the bill, s. 895.48 refers to a more limited range of situations than under current law?  
 CJS

11 **SECTION 10.** 187.43 (3) (a) 5. of the statutes is amended to read:

12 187.43 (3) (a) 5. Proceedings based upon a cause of action for which the  
 13 volunteer is immune from liability under s. 146.31 (2) and (3), 146.37, 895.44  
 14 895.475, 895.48, 895.482, 895.51, or 895.52.

NOTE: Section 895.44 is renumbered s. 895.475 by this bill.

15 **SECTION 11.** 215.26 (5) of the statutes is amended to read:

16 215.26 (5) **LEGAL HOLIDAYS.** The division shall designate such of the legal  
 17 holidays listed in s. 895.20 995.20 as days on which no association may transact  
 18 business or be open for the purpose of transacting business. For purposes of this

5 and s. 895.48 (2) and (3)  
 are renumbered  
 ss. 895.4802 and  
 895.4803

(use 2x7)

A.00  
 252.15  
 (5) (a)  
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 ment

subsection, operation of a remote service unit as defined in s. 215.13 (46) (a) 1. or an unstaffed facility does not constitute the transaction of business.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

**SECTION 12.** Subchapter IV (title) of chapter 230 [precedes 230.90] of the statutes is created to read:

### CHAPTER 230

### SUBCHAPTER IV

### EMPLOYEE FREEDOM OF SPEECH

### PROTECTION

\*\*\*NOTE: I have added this bill section. See my note to SECTION 58 for the reason.  
Do you want to add a revisor's note? CJS

**SECTION 13.** 253.10 (6) (b) of the statutes is amended to read:

253.10 (6) (b) A person who has been awarded damages under par. (a) shall, in addition to any damages awarded under par. (a), be entitled to not less than \$1,000 nor more than \$10,000 in punitive damages for a violation that satisfies a standard under s. ~~895.85~~ 895.043 (3).

NOTE: Section 895.85 is renumbered s. 895.043 by this bill.

**SECTION 14.** 285.61 (2) (a) 1. of the statutes is amended to read:

285.61 (2) (a) 1. Within 20 days, excluding statewide legal holidays specified in s. ~~895.20~~ 995.20, after receipt of the application the department shall provide written notice to the applicant describing specifically all of the plans, specifications, and any other information necessary to determine if the proposed construction, reconstruction, replacement, or modification will meet the requirements of this chapter and s. 299.15 and rules promulgated under this chapter and s. 299.15.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

**SECTION 15.** 285.62 (2) (a) 1. of the statutes is amended to read:

1           285.62 (2) (a) 1. Within 20 days, excluding statewide legal holidays specified  
2 in s. ~~895.20~~ 995.20, after receipt of the application the department shall provide  
3 written notice to the applicant describing specifically any additional information  
4 required under sub. (1) necessary to determine if the source, upon issuance of the  
5 permit, will meet the requirements of this chapter and s. 299.15 and rules  
6 promulgated under this chapter and s. 299.15.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

7           ~~SECTION 16.~~ 345.48 (1) of the statutes is amended to read:

8           345.48 (1) In this section, "working days" means all days except Saturdays,  
9 Sundays, and legal holidays under s. ~~895.20~~ 995.20.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

10          ~~SECTION 17.~~ 562.01 (3m) of the statutes is amended to read:

11          562.01 (3m) "Business day" means a business day, as defined in s. 421.301 (6),  
12 that is not a legal holiday under s. ~~895.20~~ 995.20 or a federal legal holiday.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

13          ~~SECTION 18.~~ 801.15 (1) (a) of the statutes is amended to read:

14          801.15 (1) (a) In this subsection, "holiday" means any day ~~which~~ that is a  
15 holiday provided in s. 230.35 (4) (a) or a statewide legal holiday provided in s. ~~895.20~~  
16 995.20 or both, and a full day on Good Friday.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

17          ~~SECTION 19.~~ 813.122 (3) (b) 2. of the statutes is amended to read:

18          813.122 (3) (b) 2. That all persons, other than the parties, their attorneys,  
19 witnesses, child victim advocates, service representatives, as defined in s. ~~895.73~~  
20 895.45 (1) (c), court personnel and any guardian ad litem, be excluded from any  
21 hearing under this section.

NOTE: Section 895.73 is renumbered s. 895.45 by this bill.

1 **SECTION 20.** 814.04 (intro.) of the statutes, as affected by Supreme Court Order  
2 03-06, is amended to read:

3 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),  
4 106.50 (6) (i) and (6m) (a), 115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025,  
5 802.05, 895.035 (4), ~~895.10 (3), 895.75 895.443 (3), 895.77 895.444 (2), 895.79 895.445~~  
6 ~~(3), 895.80 895.446 (3), 943.212 (2) (b), 943.245 (2) (d) and, 943.51 (2) (b), and 995.10~~  
7 ~~(3),~~ when allowed costs shall be as follows:

NOTE: Sections 895.10, 895.75, 895.77, 895.79, and 895.80 are renumbered ss.  
995.10, 895.443, 895.444, 895.445, and 895.446 by this bill.

\*\*\*\*NOTE: See my changes to statutory text (to add missing striking and correct  
sequence of x-refs). CJS

OK

8 **SECTION 21.** 893.585 of the statutes is amended to read:

9 **893.585 Sexual exploitation by a therapist.** (1) Notwithstanding ss.  
10 893.54, 893.55, and 893.57, an action under s. ~~895.70 895.441~~ for damages shall be  
11 commenced within 3 years after the cause of action accrues or be barred.

12 (2) If a person entitled to bring an action under s. ~~895.70 895.441~~ is unable to  
13 bring the action due to the effects of the sexual contact or due to any threats,  
14 instructions, or statements from the therapist, the period of inability is not part of  
15 the time limited for the commencement of the action, except that this subsection  
16 shall not extend the time limitation by more than 15 years.

17 (3) This section does not apply to damages incurred under s. ~~895.71 895.442~~.

NOTE: Section 895.70 is renumbered s. 895.441 by this bill, and s. 895.71 is  
renumbered s. 895.442 by this bill.

18 **SECTION 22.** 893.587 of the statutes is amended to read:

19 **893.587 Sexual assault of a child; limitation.** An action to recover damages  
20 for injury caused by an act that would constitute a violation of s. 948.02, 948.025,

1 948.06, or 948.095 or would create a cause of action under s. ~~895.71~~ 895.442 shall be  
2 commenced before the injured party reaches the age of 35 years or be barred.

NOTE: Section 895.71 is renumbered s. 895.442 by this bill.

3 **SECTION 23.** 893.93 (1) (e) of the statutes is amended to read:

4 893.93 (1) (e) An action under s. ~~895.77~~ 895.444.

NOTE: Section 895.77 is renumbered s. 895.444 by this bill.

5 **SECTION 24.** Chapter 895 (title) of the statutes is amended to read:

6 **CHAPTER 895**

7 **DAMAGES, LIABILITY, AND**

8 **MISCELLANEOUS GENERAL PROVISIONS**

9 **REGARDING ACTIONS IN COURTS**

NOTE: Makes chapter 895 (title) more specific.

10 ~~\*\*\*\*NOTE. The title of the chapter should be general enough to include all the  
contents of the chapter. This title, however, is identical to the title of subchapter I, and,  
as a result, seem to ignore the material in subchapter II. If you change chapter title (or  
subchapter titles) be sure to make corresponding change in analysis or notes where titles  
are quoted. CJS~~

11 **SECTION 25.** Subchapter I (title) of chapter 895 [precedes 895.01] of the statutes  
is created to read:

12 **CHAPTER 895**

13 **SUBCHAPTER I**

14 **DAMAGES, RECOVERY, AND**

15 **MISCELLANEOUS PROVISIONS**

16 **REGARDING ACTIONS IN COURTS**

NOTE: Chapter 895 is divided into two subchapters, one for exemptions to liability  
and one for all other provisions currently contained in chapter 895 that are directly  
related to court actions.

17 ~~\*\*\*\*NOTE: Bob Nelson recommended changing "Liability" to "Recovery" in this title,  
which would address the issue I raise in my note to the preceding bill section (but it is still  
necessary to make sure changed title isn't misquoted in analysis or notes). CJS~~

**SECTION 26.** 895.045 (2) of the statutes is amended to read:

As far as  
I'm concerned  
Exemption  
are a  
subset  
of  
liability

and no  
additional  
mention is  
needed

OK

1           895.045 (2) CONCERTED ACTION. Notwithstanding sub. (1), if 2 or more parties  
2   act in accordance with a common scheme or plan, those parties are jointly and  
3   severally liable for all damages resulting from that action, except as provided in s.  
4   ~~895.85~~ 895.043 (5).

NOTE: Section 895.85 is renumbered s. 895.043 by this bill.

5    ~~SECTION 27.~~ 895.10 of the statutes is renumbered 995.10.

NOTE: Moves s. 895.10, Tobacco product agreement, to new Chapter 995,  
Miscellaneous Statutes.

6    ~~SECTION 28.~~ 895.11 of the statutes is renumbered 995.11.

NOTE: Moves s. 895.11, Payments under the tobacco settlement agreement, to new  
Chapter 995, Miscellaneous Statutes.

7    ~~SECTION 29.~~ 895.12 of the statutes is renumbered 995.12, and 995.12 (1) (b), (e),  
8   (h), (j) and (k), (2) (a) 1., 5. c., d. and g., 7. and 8. and (b) 2. a. and b., (3) (a), (4) (b) and  
9   (c) and (12) as renumbered, are amended to read:

10       995.12 (1) (b) "Cigarette" has the meaning given in s. ~~895.10~~ 995.10 (1) (d).

11       (e) "Master settlement agreement" has the meaning given in s. ~~895.10~~ 995.10  
12   (1) (e).

13       (h) "Qualified escrow fund" has the meaning given in s. ~~895.10~~ 995.10 (1) (f).

14       (j) "Tobacco product manufacturer" has the meaning given in s. ~~895.10~~ 995.10  
15   (1) (i).

16       (k) "Units sold" has the meaning given in s. ~~895.10~~ 995.10 (1) (j).

17       (2) (a) 1. Every tobacco product manufacturer whose cigarettes are sold in this  
18   state, whether directly or through a distributor, retailer, or similar intermediary or  
19   intermediaries, shall execute and deliver in the manner prescribed by the attorney  
20   general a certification to the department and attorney general, no later than the 30th  
21   day of April each year, certifying that as of that date the tobacco product

1 manufacturer is either a participating manufacturer or is in full compliance with s.  
2 ~~895.10~~ 995.10 (2) (b).

3 5. c. That the nonparticipating manufacturer is in full compliance with this  
4 section and s. ~~895.10~~ 995.10.

5 d. The name, address, and telephone number of the financial institution where  
6 the nonparticipating manufacturer has established the qualified escrow fund  
7 required under s. ~~895.10~~ 995.10 (2) (b).

8 g. The amount and date of any withdrawal or transfer of funds the  
9 nonparticipating manufacturer made at any time from the fund or from any other  
10 qualified escrow fund into which it ever made escrow payments under s. ~~895.10~~  
11 995.10 (2) (b).

12 7. A nonparticipating manufacturer may not include a brand family in its  
13 certification unless it affirms that the brand family constitutes its cigarettes for  
14 purposes of s. ~~895.10~~ 995.10.

15 8. Nothing in this section shall be construed as limiting or otherwise affecting  
16 the state's right to maintain that a brand family constitutes cigarettes of a different  
17 tobacco product manufacturer for purposes of calculating payments under the  
18 master settlement agreement or for purposes of s. ~~895.10~~ 995.10.

19 (b) 2. a. An escrow payment required under s. ~~895.10~~ 995.10 (2) (b) for any  
20 period for any brand family, whether or not listed by such nonparticipating  
21 manufacturer, has not been fully paid into a qualified escrow fund governed by a  
22 qualified escrow agreement that has been approved by the attorney general.

23 b. Any outstanding final judgment, including interest on that judgment, for a  
24 violation of s. ~~895.10~~ 995.10 has not been fully satisfied for the brand family or  
25 manufacturer.

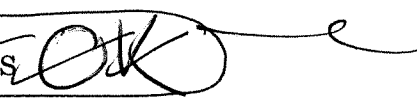
1           (3) (a) *Requirement for agent for service of process.* Any nonresident or foreign  
2 nonparticipating manufacturer that has not registered to do business in this state  
3 as a foreign corporation or business entity shall, as a condition precedent to having  
4 its brand families included or retained in the directory under sub. (2) (b), appoint and  
5 continually engage the services of an agent in this state to act as agent for the service  
6 of process on whom all processes, and any action or proceeding against it concerning  
7 or arising out of the enforcement of this section and s. ~~895.10~~ 995.10, may be served  
8 in any manner authorized by law. That service shall constitute legal and valid  
9 service of process on the nonparticipating manufacturer. The nonparticipating  
10 manufacturer shall provide the name, address, phone number, and proof of the  
11 appointment and availability of the agent to the attorney general.

12           (4) (b) *Disclosure of information.* The department is authorized to disclose to  
13 the attorney general any information received under this section and requested by  
14 the attorney general for purposes of determining compliance with and enforcing the  
15 provisions of this section. The department and attorney general shall share with  
16 each other the information received under this section, and may share such  
17 information with other federal, state, or local agencies only for purposes of  
18 enforcement of this section, s. ~~895.10~~ 995.10, or corresponding laws of other states.

19           (c) *Verification of qualified escrow fund.* The attorney general may require at  
20 any time from the nonparticipating manufacturer proof, from the financial  
21 institution in which the manufacturer has established a qualified escrow fund for the  
22 purpose of compliance with s. ~~895.10~~ 995.10, of the amount of money in that fund,  
23 exclusive of interest, the amount and date of each deposit into the fund, and the  
24 amount and date of each withdrawal from the fund.

(12) CONSTRUCTION. If a court finds that the provisions of this section and of s. ~~895.10~~ 995.10 conflict and cannot be harmonized, then the provisions of s. ~~895.10~~ 995.10 shall control. If any part of this section causes s. ~~895.10~~ 995.10 to no longer constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, then that portion of this section is not valid.

NOTE: Moves s. 895.12, Certification under the tobacco settlement agreement, to new Chapter 995, Miscellaneous Statutes. Section 895.10 is renumbered to s. 995.10 by this bill.

~~\*\*\*NOTE: See my addition in subsection (12). CJS~~ 

**SECTION 30.** 895.20 of the statutes is renumbered 995.20.

NOTE: Moves s. 895.20, Legal holidays, to new Chapter 995, Miscellaneous Statutes.

**SECTION 31.** 895.22 of the statutes is renumbered 995.22.

NOTE: Moves s. 895.22, Wisconsin family month, week and Sunday, to new Chapter 995, Miscellaneous Statutes.

**SECTION 32.** 895.225 of the statutes is renumbered 995.225.

NOTE: Moves s. 895.225, Fire Prevention Week, to new Chapter 995, Miscellaneous Statutes.

**SECTION 33.** 895.23 of the statutes is renumbered 995.23.

NOTE: Moves s. 895.23 Indian Rights Day, to new Chapter 995, Miscellaneous Statutes.

**SECTION 34.** 895.36 (title) of the statutes is amended to read:

**895.36 (title) Process against corporation or limited liability company officer.**

NOTE: Makes title more specific to clarify the applicability of the statute.

**SECTION 35.** 895.37 (title) of the statutes is amended to read:

**895.37 (title) Abrogation of defenses in employee personal injury actions.**

NOTE: Makes title more specific to clarify the applicability of the statute.

**SECTION 36.** 895.38 of the statutes is renumbered 112.09.

NOTE: Moves s. 895.38, Surety, how discharged, to Chapter 112, Fiduciaries, for more logical placement.

1 **SECTION 37.** 895.41 of the statutes is renumbered 103.165.

NOTE: Moves s. 895.41, Employee's cash bonds to be held in trust; duty of employer; penalty, to Chapter 103, Employment Regulations, for more logical placement.

2 **SECTION 38.** 895.437 of the statutes is renumbered 134.96.

NOTE: Moves s. 895.437, Use of lodging establishments, which contains various regulations relating to the use of lodging establishments for purposes relating to alcohol consumption by minors and illegal use of controlled substances and allowing lodging establishments to require a deposit when lodging is applied for, to Chapter 134, Miscellaneous Trade Regulations, for more logical placement.

3 **SECTION 39.** 895.44 of the statutes is renumbered 895.475.

NOTE: Moves s. 895.44, Exemption from civil liability for furnishing safety inspection or advisory services, so that it is located in Subchapter II, Exemptions From Liability.

\*\*\*NOTE: See my change to revisor's note. CJS

4 **SECTION 40.** Subchapter II (title) of Chapter 895 [precedes 895.475] of the  
5 statutes is created to read:

6 **CHAPTER 895**

7 **SUBCHAPTER II**

8 **EXEMPTIONS FROM, AND LIMITATIONS**

9 **ON, LIABILITY**

NOTE: Ch. 895 is divided into two subchapters, one for exemptions to liability and one for all other provisions currently contained in ch. 895 that are directly related to court actions.

\*\*\*NOTE: Bob Nelson recommended changing this title to "Exemptions From, And Limitations On, Liability". This change addresses the question I raise in my notes to SECTIONS 53 and 54 below. CJS

10 **SECTION 41.** 895.48 (title) of the statutes is amended to read:

11 **895.48 (title) Civil liability exemption; emergency medical care,**  
12 **~~athletic events health care, hazardous substances and information~~**  
13 **~~concerning paternity.~~**

NOTE: This bill renumbers s. 895.48 (2) and (3) to be separate sections because the subject matter of each, actions regarding hazardous materials emergencies and distributing information to new parents about paternity, does not relate to emergency

medical care. The bill retains under s. 895.48 subsections (1), (1m), and (4), which relate to emergency medical care.

\*\*\*\*NOTE: Subsection (1m) refers to "voluntary" health care not "emergency" health care. Either the section title and the note should be changed or sub. (1m) should be moved. Also, see my changes to revisor's note. CJS

I disagree  
with title.  
Emergency  
is being  
used in  
abridged  
not technical  
sense.

1 **SECTION 42.** 895.48 (2) of the statutes is renumbered 895.4802, and 895.4802  
2 (1) (intro.), (3) (intro.) and (4) (b) and (c) as renumbered, are amended to read:

3 895.4802 (1) (intro.) In this ~~subsection~~ section:

4 (3) (intro.) The immunity under ~~par. (b)~~ sub. (2) does not extend to any person:

5 (4) (b) The good faith of any hazardous substance predictor or any person who  
6 provides the technology to make a prediction is presumed in any civil action. Any  
7 person who asserts that the acts or omissions under subd. 1. par. (a) were not made  
8 in good faith has the burden of proving that assertion by clear and convincing  
9 evidence.

10 (c) The immunity under subd. 1. par. (a) does not extend to any person described  
11 under par. (c) 1., 2. or 3 sub. (3) (a), (b), or (c).

NOTE: This bill renumbers s. 895.48 (2) to be a separate section, s. 895.4802, because the subject matter, actions regarding hazardous materials emergencies, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

\*\*\*\*NOTE: The revisor's note may have to be adjusted to reflect changes made in response to my note under treatment of s. 895.48 (title). CJS

12 **SECTION 43.** 895.48 (3) of the statutes is renumbered 895.4803.

NOTE: This bill renumbers s. 895.48 (3) to be a separate section, s. 895.4803, because the subject matter, distributing information to new parents about paternity, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

\*\*\*\*NOTE: The revisor's note may have to be adjusted to reflect changes made in response to my note under treatment of s. 895.48 (title). CJS

13 **SECTION 44.** 895.4802 (title) of the statutes is created to read:

14 **895.4802 (title) Civil liability exemption; hazardous materials.**

NOTE: This bill renumbers s. 895.48 (2) to be a separate section, s. 895.4802, because the subject matter, actions regarding hazardous materials emergencies, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

\*\*\*\*NOTE: The revisor's note may have to be adjusted to reflect changes made in response to my note under treatment of s. 895.48 (title). CJS

- 1 **SECTION 45.** 895.4803 (title) of the statutes is created to read:  
2 **895.4803** (title) **Civil liability exemption; information concerning**  
3 **paternity.**

NOTE: This bill rennumbers s. 895.48 (3) to be a separate section, s. 895.4803, because the subject matter, distributing information to new parents about paternity, does not relate to emergency medical care, the subject of s. 895.48 after treatment by this bill.

\*\*\*\*NOTE: The revisor's note may have to be adjusted to reflect changes made in response to my note under the treatment of s. 895.48 (title). CJS

- 4 **SECTION 46.** 895.49 of the statutes is renumbered 895.447.

NOTE: Moves s. 895.49, Certain agreements to limit or eliminate tort liability void, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability And Miscellaneous Provisions Regarding Actions In Courts. Recovery

- 5 **SECTION 47.** 895.495 of the statutes is renumbered 895.448.

NOTE: Moves s. 895.495, Safety devices on farm equipment, ordinary negligence, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability And Miscellaneous Provisions Regarding Actions In Courts. Recovery

- 6 **SECTION 48.** 895.50 of the statutes is renumbered 995.50.

NOTE: Moves s. 895.50, Right of privacy, to new Chapter 995, Miscellaneous Statutes.

- 7 **SECTION 49.** 895.505 of the statutes is renumbered 134.97.

NOTE: Moves s. 895.505, Disposal of records containing personal information, which is applicable to financial institutions, medical businesses, and tax preparation businesses, to Chapter 134, Miscellaneous Trade Regulations, for more logical placement.

- 8 **SECTION 50.** 895.51 (title) of the statutes is amended to read:  
9 **895.51** (title) **Liability Civil liability exemption; food donation, sale or**  
10 **distribution.**

NOTE: Conforms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

- 11 **SECTION 51.** 895.515 (title) of the statutes is amended to read:  
12 **895.515** (title) **Liability Civil liability exemption; equipment or**  
13 **technology donation.**

④ \*\*\*\* NOTE: See my change to revisor's note. CJS

NOTE: Conforms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

1 **SECTION 52.** 895.517 (title) of the statutes is amended to read:

2 **895.517 (title) ~~Liability~~ Civil liability exemption: solid waste donation**  
3 **or sale.**

NOTE: Conforms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

4 **SECTION 53.** 895.525 (title) of the statutes is amended to read:

5 **895.525 (title) Participation in recreational activities; restrictions on**  
6 **civil liability, assumption of risk.**

NOTE: Makes title more specific to clarify the applicability of the statute.

\*\*\*\*NOTE: Should subchapter title be adjusted to better include this statute section, in as much as the section does not, strictly speaking, describe an "exemption" from liability? CJS

7 **SECTION 54.** 895.527 (title) of the statutes is amended to read:

8 **895.527 (title) Sport shooting range activities; limitations on liability**  
9 **and restrictions on operation.**

NOTE: Makes title more specific to clarify the applicability of the statute.

\*\*\*\*NOTE: Should subchapter title be adjusted to better include this statute section, in as much as the section does not, strictly speaking, describe an "exemption" from liability? CJS

10 **SECTION 55.** 895.53 (title) of the statutes is amended to read:

11 **895.53 (title) Liability Civil and criminal liability exemption; tests for**  
12 **intoxication.**

NOTE: Conforms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

13 **SECTION 56.** 895.55 (title) of the statutes is amended to read:

14 **895.55 (title) Liability for damages exemption; oil discharge control.**

NOTE: Makes title more specific to clarify the applicability of the statute.

\*\*\*\*NOTE: Bob Nelson recommends leaving this title alone. CJS

15 **SECTION 57.** 895.555 (title) of the statutes is amended to read:

~~Move s. 895.65, Government  
employee retaliation prohibited, which prohibits  
government employees from retaliating by engaging  
in discrimination~~

~~None~~  
~~the~~  
~~it is unclear~~

1

**895.555 (title) Liability Civil liability exemption; anhydrous ammonia.**

INS Q

2

NOTE: Conforms title to other section titles within Subchapter II of Chapter 895, consistent with the subject matter of the section.

**SECTION 58.** 895.65 of the statutes is renumbered 230.90.

\*\*\*NOTE: This section replaces SECTION 57 in the original draft. Bob Nelson and Rich Champagne recommended the change. Because s. 895.65 is about state employees it should go in ch. 230. In addition Bob and Rick suggested making it into subch. IV of chapter 230 because it is about a subject of the same kind as that in subch. III of ch. 230, but with a different legal and constitutional framework and history. I have created the subch. IV (title), as recommended by Bob Nelson, in SECTION 12 of the bill. CJS

**SECTION 59.** 895.67 of the statutes is renumbered 995.67.

NOTE: Moves s. 895.67, Domestic abuse services; prohibited disclosures, to new Chapter 995, Miscellaneous Statutes.

4

**SECTION 60.** 895.70 of the statutes is renumbered 895.441, and 895.441 (title),

5

as renumbered, is amended to read:

Action for sexual

6

**895.441 (title) ~~Sexual~~ exploitation by a therapist; cause of action.**

Recovery

NOTE: Moves s. 895.70, Sexual exploitation by a therapist, which provides a cause of action, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

\*\*\*NOTE: Is proposed title too specific? It seems like this section provides for a number of things, not all of which are directly related to the "cause of action" — e.g., punitive damages. CJS

7

**SECTION 61.** 895.71 of the statutes is renumbered 895.442, and 895.442 (title)

8

and (5), as renumbered, are amended to read:

9

**895.442 (title) ~~Sexual~~ exploitation by a member of the clergy; cause of**

10

action.

Action for sexual

11

**(5) SILENCE AGREEMENTS.** Any contract or agreement concerning the settlement

12

of any claim under this section that limits or eliminates the right of the injured

13

person to disclose the sexual contact described under sub. (2) to another member of

14

the religious organization to which the member of the clergy under sub. (2) belongs,

15

to a therapist, as defined in s. 895.70 895.441 (1) (e), to a person listed under s. 48.981

16

(2) (a), or to a district attorney, is void.

④

\*\*\* NOTE: See my change to revisor's note. CJS

④ \*\*\*\* NOTE: See my change to revisor's note. CJS

NOTE: Moves s. 895.71, Sexual exploitation by a member of the clergy, which provides a cause of action, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute. Section 895.70 is renumbered s. 895.441 by this bill.

1 **SECTION 62.** 895.73 of the statutes is renumbered 895.45, and 895.45 (title), as  
2 renumbered, is amended to read:

3 **895.45 (title) Service representatives for adult abusive conduct**  
4 **complainants.**

NOTE: Moves s. 895.73, Service representatives, which allows adult abuse victims appearing in court to have a service representative present, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

\*\*\*NOTE: I added the word "adult" to the revisor's note. CJS

5 **SECTION 63.** 895.75 of the statutes is renumbered 895.443, and 895.443 (title),  
6 as renumbered, is amended to read:

7 **895.443 (title) Physical injury, emotional distress, loss or damage**  
8 **suffered by members of certain groups; cause of action.**

NOTE: Moves s. 895.75, Physical injury, emotional distress, loss or damage suffered by members of certain groups, which allows for recovery for emotional damages in certain actions, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

\*\*\*NOTE: Is proposed title too specific? Section also addresses damages that may be recovered, including punitive damages. CJS

9 **SECTION 64.** 895.76 of the statutes is renumbered 895.455.

NOTE: Moves s. 895.76, Limits on recovery by prisoners, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts.

10 **SECTION 65.** 895.77 of the statutes is renumbered 895.444, and 895.444 (title),  
11 as renumbered, is amended to read:

12 **895.444 (title) Injury caused by criminal gang activity; cause of action.**

NOTE: Moves s. 895.77, Injury caused by criminal gang activity, which creates a cause of action, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

\*\*\*NOTE: Is title too specific? It seems like section does more than just create cause of action. For example, it lays out injunctions and orders that a court may impose. CJS

1 **SECTION 66.** 895.78 of the statutes is renumbered 895.457.

NOTE: Moves s. 895.78, Limiting felon's right to damages, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability and Miscellaneous Provisions Regarding Actions in Courts.

2 **SECTION 67.** 895.79 of the statutes is renumbered 895.445, and 895.445 (title),  
3 as renumbered, is amended to read:

4 **895.445 (title)** ~~Damage to certain machines~~ **cause of action.**

NOTE: Moves s. 895.79, Damage to certain machines, which creates a cause of action, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

\*\*\*NOTE: Is title too specific? Section also authorizes treble damages. CJS

5 **SECTION 68.** 895.80 of the statutes is renumbered 895.446, and 895.446 (title),  
6 as renumbered, is amended to read:

7 **895.446 (title)** ~~Property~~ **damage or loss caused by crime; cause of**  
8 **action.**

NOTE: Moves s. 895.80, Property damage or loss, which creates a cause of action, so that it is not located in Subchapter II, Exemptions From Liability, and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts. Makes title more specific to clarify the applicability of the statute.

\*\*\*NOTE: Is proposed title too specific? What about changing this and similar titles to read, "Action for...". Such a title would cover both the cause of the action and the damages that can be recovered under the action. CJS

9 **SECTION 69.** 895.85 of the statutes is renumbered 895.043.

NOTE: Moves s. 895.85, Punitive damages, so it is not located in Subchapter II, Exemptions From Liability and is located in Subchapter I, Damages, Liability, and Miscellaneous Provisions Regarding Actions in Courts.

10 **SECTION 70.** 938.346 (1) (h) 1. of the statutes is amended to read:

11 938.346 (1) (h) 1. The right to be accompanied by a service representative, as  
12 provided under s. 895.73 895.45.

NOTE: Section 895.73 is renumbered s. 895.45 by this bill.

13 **SECTION 71.** 950.04 (1v) (c) of the statutes is amended to read:

④ \*\*\*NOTE: See my change to revisor's note: CJS

1           950.04 (1v) (c) To be accompanied by a service representative, as provided  
2 under s. ~~895.73~~ 895.45.

NOTE: Section 895.73 is renumbered s. 895.45 by this bill.

3           ~~SECTION 72.~~ 970.03 (4) (a) of the statutes is amended to read:

4           970.03 (4) (a) If the defendant is accused of a crime under s. 940.225, 948.02,  
5 948.025, 948.05, 948.06, or 948.095, the court may exclude from the hearing all  
6 persons who are not officers of the court, members of the complainant's or defendant's  
7 families, or others considered by the court to be supportive of the complainant or  
8 defendant, the service representative, as defined in s. ~~895.73~~ 895.45 (1) (c), or other  
9 persons required to attend, if the court finds that the state or the defendant has  
10 established a compelling interest that would likely be prejudiced if the persons were  
11 not excluded. The court may consider as a compelling interest, among others, the  
12 need to protect a complainant from undue embarrassment and emotional trauma.

NOTE: Section 895.73 is renumbered s. 895.45 by this bill.

13           ~~SECTION 73.~~ 990.001 (4) (e) of the statutes is amended to read:

14           990.001 (4) (e) "Legal holiday" as used in this section means any statewide legal  
15 holiday provided in s. ~~895.20~~ 995.20. When an act is permitted to be done by the use  
16 of the postal service, and the last day within the time prescribed by law for  
17 performing such act falls on a legal public holiday under federal law, or other holiday  
18 designated by the president such that the postal service does not receive registered  
19 mail or make regular deliveries on that day, the day shall be considered a legal  
20 holiday for purposes of this section.

NOTE: Section 895.20 is renumbered s. 995.20 by this bill.

21           ~~SECTION 74.~~ Chapter 995 (title) of the statutes is created to read:

## CHAPTER 995

## MISCELLANEOUS STATUTES

\*\*\*\*NOTE: There are cross-references to "ch. 885 to 895" in s. 146.38 (3) (e) and s. 972.11 (1). I asked Bob Nelson to check these to see if any of the material moved out of ch. 895 by the bill needed to be added to these cross-references. Bob wasn't sure that chapter 895 should ever have been cross-referenced in these places, but notes that s. 895.41, which may be relevant, is moved out of ch. 895 by the bill. I think you may need to give Bob a call to work out how you want to proceed. CJS

(END)

~~895.61~~  
~~ch. 995~~

Add those 2 sections and

add "and ch. 995"

I don't think 895.41 applies.

Bob was out but I text a message  
that this what I want to do.

**2005-2006 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0953/P2insCJS

.....

SA✓

1      **INS Y**

NOTE: Section 895.65 is renumbered s. 230.90 by this bill. Because that section is about a subject of the same kind as that in subch. III of ch. 230, but with a different legal and constitutional framework and history, subch. IV of ch. 230 is created for it by this bill.

\*\*\*\*NOTE: Please review new revisor's note. CJS

2      **INS Q**

NOTE: Moves s. 895.65, Government employer retaliation prohibited, which prohibits government employers from retaliating, by engaging in disciplinary action, against employees lawfully disclosing information, to ch. 230, State Employment Relations, for more logical placement.

\*\*\*\*NOTE: Please review new revisor's note. CJS

3      **INS XA**

4      **SECTION 1.** 146.38 (3) (e) of the statutes is amended to read:

5      146.38 (3) (e) With regard to any criminal matter, to a court of record, in  
6      accordance with chs. 885 to 895 and after issuance of a subpoena; and

and 995

\*\*\*\*NOTE: Please add revisor's note. CJS

History: 1975 c. 187; 1979 c. 89; 1983 a. 27; 1989 a. 102; 1991 a. 217; 1999 a. 56.

7      **INS XB**

8      **SECTION 2.** 252.15 (5) (a) 11. of the statutes is amended to read:

9      252.15 (5) (a) 11. To a person, including a person exempted from civil liability  
10      under the conditions specified under s. 895.48, who renders to the victim of an  
11      emergency or accident emergency care during the course of which the emergency  
12      caregiver is significantly exposed to the emergency or accident victim, if a physician,  
13      based on information provided to the physician, determines and certifies in writing  
14      that the emergency caregiver has been significantly exposed and if the certification  
15      accompanies the request for disclosure.

895.4802, or 895.4803

NOTE: Section 895.44 is renumbered s. 895.475, and s. 895.48 (2) and (3) are renumbered ss. 895.4802 and 895.4803 by this bill.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271.

895.4802 ↑ or 895.4803

**INS XC**

**SECTION 3.** 252.15 (5m) (a) of the statutes is amended to read:

252.15 (5m) (a) If a person, including a person exempted from civil liability under the conditions specified under s. 895.48, who renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the emergency or accident victim and the emergency or accident victim subsequently dies prior to testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, and if a physician, based on information provided to the physician, determines and certifies in writing that the emergency caregiver has been significantly exposed and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the coroner, medical examiner or physician who certifies the victim's cause of death under s. 69.18 (2) (b), (c) or (d).

NOTE: Section 895.44 is renumbered s. 895.475, and s. 895.48 (2) and (3) are renumbered ss. 895.4802 and 895.4803, by this bill.

**History:** 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271.

**INS XD**

**SECTION 4.** 972.11 (1) of the statutes is amended to read:

972.11 (1) Except as provided in subs. (2) to (4), the rules of evidence and practice in civil actions shall be applicable in all criminal proceedings unless the context of a section or rule manifestly requires a different construction. No guardian ad litem need be appointed for a defendant in a criminal action. Chapters 885 to 895, except ss. 804.02 to 804.07 and 887.23 to 887.26, shall apply in all criminal proceedings.

and 995

\*\*\*NOTE: Please add revisor's note. CJS

**History:** Sup. Ct. Order, 59 Wis. 2d R1, R7 (1973); Sup. Ct. Order, 67 Wis. 2d 585, 784 (1975); 1975 c. 184, 422; 1979 c. 89; 1981 c. 147 ss. 1, 2; 1983 a. 165, 449; 1985 a. 275; 1987 a. 332 s. 64; 1993 a. 16, 97, 227, 359; 1995 a. 456; 1997 a. 319; 1999 a. 185; 2001 a. 16.